

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

WOOD CREEK WATER DISTRICT AND ITS)	
INDIVIDUAL COMMISSIONERS, GLENN)	CASE NO.
WILLIAMS, EARL BAILEY, AND JIMMY KELLER)	2016-00338
ALLEGED FAILURE TO COMPLY WITH KRS)	
278.300(1))	

ORDER

On December 17, 2014, Wood Creek Water District (“Wood Creek”) tendered an application in Case No. 2014-00440, requesting authority to issue securities for the purpose of refunding certain outstanding revenue bonds of the district.¹ By Order entered January 5, 2015, the Commission approved Wood Creek’s request to borrow \$1,633,500 from Kentucky Rural Water Finance Corporation (“KRWFC”) to refinance certain outstanding bonds issued to the United States Department of Agriculture, Rural Development (“RD”).²

Wood Creek subsequently tendered an application for rate adjustment pursuant to 807 KAR 5:076 on December 28, 2015.³ During the review conducted by Commission Staff (“Staff”) in this rate case filing, Staff became aware of excess borrowing by Wood Creek following the Commission’s Order in Case No. 2014-00440.

¹ Case No. 2014-00440, *Application of Wood Creek Water District to Issue Securities in the Approximate Principal Amount of \$1,485,000 for the Purpose of Refunding Certain Outstanding Revenue Bonds of the District Pursuant to the Provisions of KRS 278.300 and 807 KAR 5:001* (Ky. PSC Dec. 17, 2014).

² Case No. 2014-00440, *Wood Creek Water District* (Ky. PSC Jan. 5, 2015), final Order

³ Case No. 2015-00428, *Application of Wood Creek Water District for Rate Adjustment Pursuant to KAR 5:076* (Ky. PSC Dec. 28, 2015).

Wood Creek executed a loan with KRWFC for \$2,780,000, which was \$1,146,500 more than the refinancing amount authorized in Case No. 2014-00440. Subsequent to Staff's identification of this issue, Wood Creek⁴ and its counsel⁵ wrote to the Commission explaining that after filing the application in Case No. 2014-00440, Wood Creek was advised that additional savings would be realized by reamortizing certain KRWFC loans made earlier in the program. The decision to reamortize the KRWFC bonds was made after the Commission entered the January 5, 2015 Order authorizing the RD bond refinancing. As a result of rolling the reamortization of the earlier KRWFC loans into the RD bond refinancing, Wood Creek borrowed a total of \$2,780,000 from KRWFC, an amount clearly in excess of the amount authorized by the Commission. Correspondence from Wood Creek acknowledges the excess borrowing, and states that the failure to request an amendment to the Commission's Order was an unintentional error.⁶ This matter was discussed in the Staff Report issued in Case No. 2015-00428,⁷ and the Order approving new rates for Wood Creek in that case noted that Wood Creek had issued this indebtedness without prior approval, and that the Commission would initiate a new proceeding to more thoroughly investigate the issuance of excess indebtedness without prior Commission approval.⁸

⁴ Case No. 2014-00440, Letter from Wood Creek Water District to Jeff Derouen, Kentucky Public Service Commission, (filed Jan. 26, 2016).

⁵ *Id.*, Letter from Randall Jones, Rubin & Hayes, to Jeff Derouen, Kentucky Public Service Commission, (filed Jan. 29, 2016).

⁶ *Id.*, Letter from Wood Creek Water District to Jeff Derouen, Kentucky Public Service Commission, (filed Jan. 26, 2016).

⁷ Case No. 2015-00428, *Application of Wood Creek Water District for Rate Adjustment Pursuant to KAR 5:076* (Ky. PSC Apr. 15, 2016).

⁸ Case No. 2015-00428, *Wood Creek Water District* (Ky. PSC July. 14, 2016).

KRS 278.300(1) states that no utility shall issue any form of indebtedness unless it has been authorized to do so by an Order of the Commission. The Commission finds that a *prima facie* case has been made that Wood Creek violated KRS 278.300 by issuing evidences of indebtedness to KRWFC in excess of the amount approved by the Commission in Case No. 2014-00440.

Pursuant to KRS 74.020(1), "A water district shall be administered by a board of commissioners which shall control and manage the affairs of the district." The Commission finds that a *prima facie* case has been made that Wood Creek commissioners Glenn Williams, chairman; Earl Bailey, secretary; and Jimmy Keller, treasurer, acting in their respective individual capacities as members of Wood Creek's Board of Commissioners, willfully aided and abetted in the above violation.

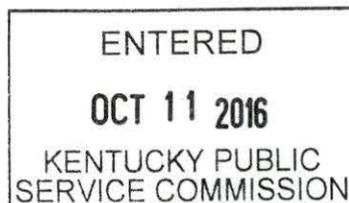
IT IS THEREFORE ORDERED that:

1. Wood Creek commissioners Glenn Williams, chairman; Earl Bailey, secretary; and Jimmy Keller, treasurer, individually and in their respective capacities as commissioners of Wood Creek, shall submit to the Commission individual written responses to the allegations contained herein within 20 days of the date of this Order.

2. Wood Creek commissioners Glenn Williams, chairman; Earl Bailey, secretary; and Jimmy Keller, treasurer, individually in their respective capacities as commissioners of Wood Creek, or as the utility's manager, shall appear at a hearing scheduled for December 13, 2016, at 9:00 a.m. Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, and be prepared to show cause why they should not be subject to the penalties prescribed in KRS 278.990(1) for the alleged violation of KRS 278.300.

3. The December 13, 2016 Hearing shall be recorded by videotape only.
4. The record of Case No. 2014-00440 shall be incorporated into this case by reference only.
5. Any request for an informal conference to discuss the issues in this case, which may be held via telephone with Commission Staff at the request of any of the above-named commissioners, shall be set forth in writing and filed with the Commission within 20 days of the date of this Order.

By the Commission



ATTEST:


Executive Director

Jimmy Keller
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